

HOUSE BILL No. 1076

DIGEST OF INTRODUCED BILL

Citations Affected: IC 23-14-57.5.

Synopsis: Cemetery protection. Requires that the person effecting disinterment, removal, and reinterment of a grave give 60 days written notice to the decedent's next of kin and publish the notice in a newspaper of general circulation. Requires the person effecting the removal of graves to file a certificate of removal facts with the county recorder in the county from which the graves were removed and the county in which reinterment is made. Requires that the certificate of removal facts list information contained on the gravestone or other markers, such as the birth date, death date, and family name. Requires that all expenses associated with the disinterment, removal, and reinterment be paid by the person effecting the disinterment, removal, (Continued next page)

Effective: July 1, 1999.

Cheney

January 6, 1999, read first time and referred to Committee on Human Affairs.



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Digest Continued

and reinterment. Requires the person effecting the disinterment, removal, and reinterment to ensure that the site for reinterment is suitable and reasonably accessible to relatives of the decedent. Requires that disinterment, removal, and reinterment be performed under the supervision and direction of the county executive or the county executive's designee. Requires that due care be taken to furnish suitable coffins or boxes for reintering human remains and to remove, protect, and replace all gravestones or other markers.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1076

A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 23-14-57.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1999]:

4 **Chapter 57.5. Removal of Graves**

5 **Sec. 1. As used in this chapter, "person" has the meaning set**
6 **forth in IC 23-1-20-18 and includes a church or religious**
7 **institution.**

8 **Sec. 2. A person must satisfy IC 23-14-57-1, IC 23-14-57-2, and**
9 **IC 23-14-57-5 before the removal of a grave in order to comply**
10 **with this chapter.**

11 **Sec. 3. Disinterment, removal, and reinterment of human**
12 **remains may be effected by any of the following persons:**

13 **(1) By:**

14 **(A) the state or its agencies;**

15 **(B) a political subdivision of the state; or**

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(C) the United States government or its agencies;
 when the governmental entity listed in this subdivision
 determines that removal is reasonably necessary to perform
 its governmental functions and duties delegated to it by law
 and certifies to the county executive of the county that
 contains the human remains that the removal is reasonably
 necessary.

(2) By any church or religious institution in order to:

(A) erect a new church, parish house, parsonage, or any
 other facility owned and operated exclusively by the
 church or religious institution;

(B) expand or enlarge an existing church or religious
 institution facility; or

(C) better care for and maintain graves not located in a
 regular cemetery or burial ground for which the church or
 religious institution has assumed responsibility of care and
 custody.

(3) By a utility when it owns land that is to be used as a
 reservoir on which graves are located.

(4) By any individual, firm, corporation, sole proprietorship,
 partnership, association, limited liability company, fiduciary,
 or other legal entity that owns land on which abandoned
 cemeteries or burial grounds are located after first securing
 the consent of the legislative body (as defined in IC 36-1-2-9)
 of the town, city, or county in which abandoned cemeteries or
 burial grounds are situated.

**Sec. 4. (a) The person effecting disinterment, removal, and
 reinterment of a grave containing a decedent's remains under this
 chapter shall before disinterment:**

(1) give sixty (60) days written notice of that intention to the
 next of kin of the decedent, if known or subject to being
 ascertained by reasonable search and inquiry; and

(2) cause notice of the disinterment, removal, and reinterment
 to be published:

(A) at least once per week for four (4) successive weeks in
 a newspaper of general circulation if there is only one (1)
 such newspaper; or

(B) at least once per week for four (4) successive weeks in
 two (2) newspapers of general circulation if there is more
 than one (1) such newspaper;

in the county where the grave is situated. The first publication
 may not be less than sixty (60) days before disinterment.



(b) Any remains disinterred and removed under this chapter must be reinterred in a suitable cemetery or burial ground.

Sec. 5. (a) The person removing or causing the removal of one (1) or more graves shall, within thirty (30) days after completion of the removal and reinterment, file with the county recorder of the county:

(1) from which the graves were removed; and

(2) in which reinterment is made;

a written certificate of removal facts in the form and manner required by the county recorder.

(b) The certificate of removal facts must contain:

(1) an alphabetical listing of the full name, if known or reasonably ascertainable, of each decedent whose grave is moved;

(2) a precise description of all information carved on the gravestone or other marker, including:

(A) dates;

(B) references to family members; and

(C) mementos;

(3) a precise description of the site from which each grave was removed;

(4) a precise description of the site and specific location where the decedent's remains have been reinterred;

(5) the full and correct name of the party effecting the removal; and

(6) a brief description of the statutory basis upon which the removal or reinterment was effected.

(c) If the full name of a decedent cannot be reasonably ascertained, the removing party shall set forth all additional reasonably ascertainable facts about the decedent, including:

(1) birth date;

(2) death date; and

(3) family name.

(d) The county recorder may collect a filing fee under IC 36-2-7-10.

Sec. 6. All expenses of disinterment, removal, acquisition of the new burial site, and reinterment shall be paid by the person effecting the disinterment, removal, acquisition, and reinterment, including the actual reasonable expense of one (1) of the next of kin incurred in attending the disinterment, removal, acquisition, and reinterment, not to exceed the sum of two hundred dollars (\$200).

Sec. 7. The state department of health shall adopt rules under



IC 4-22-2 governing the registration and indexing of the written certificate of removal facts, including the form of that certificate.

Sec. 8. (a) The person effecting the disinterment, removal, and reinterment of a decedent's remains under this chapter shall ensure that the reinterment site is:

(1) of suitable dimensions to accommodate the remains of that decedent only; and

(2) reasonably accessible to all relatives of that decedent.

(b) The remains may be reinterred in a common grave if:

(1) written consent is obtained from the next of kin; or

(2) the remains came from a common grave and next of kin cannot be identified.

(c) If disinterment, removal, and reinterment is effected under this chapter by the state or its agencies or political subdivisions, the United States government or its agencies, or any utility, the disinterment, removal, and reinterment shall be performed by a licensed funeral director (as defined in IC 25-15-2-12).

Sec. 9. (a) All disinterment, removal, and reinterment under this chapter shall be performed under the supervision and direction of the county executive or the county executive's designee for the county where disinterment, removal, and reinterment take place.

(b) If reinterment is effected in a county different from the county of disinterment, with the consent of the next of kin of the decedent whose remains are disinterred:

(1) disinterment and removal shall be performed under the supervision and direction of the county executive or the county executive's designee for the county of the disinterment; and

(2) reinterment shall be made under the supervision and direction of the county executive or the county executive's designee for the county of reinterment.

(c) Due care shall be taken to:

(1) do the work in a proper and decent manner;

(2) furnish suitable coffins or boxes for reintering the human remains; and

(3) remove, protect, and replace all gravestones or other markers so as to leave the gravestones or other markers in as good a condition as that before disinterment or provide a suitable replacement marker.

(d) Whenever the remains are to be moved to a perpetual care cemetery or other cemetery where upright gravestones are not permitted, a suitable replacement marker must be provided.



1 **Sec. 10. This chapter may not be construed to grant or confer**
2 **the power or authority of eminent domain or to impair the right of**
3 **the next of kin of a decedent to remove or cause the removal, at the**
4 **next of kin's expense, of the remains or grave of the decedent.**

5 **Sec. 11. A person who knowingly violates this chapter commits**
6 **a Class B misdemeanor.**

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